

CLAIMS 8-13 AND 15-20, AS AMENDED, AND NEW CLAIMS 21-27 ARE NOT INDEFINITE

Claims 8-20 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as his invention. The Office Action objects to the use of the term "significantly overlapped" in describing the relative positions of the slide panels in claim 8 (and by dependency therefrom, claims 9-17), claim 10, and claim 18 (and by dependency therefrom, claims 19-20). In response, Applicant has amended claims 8-13 and 15-20 to delete the term "significantly" when referring to the degree of overlap of the slide panels when the packer face plate is in the forward position, to remove references to a degree of overlap of the slide panels when the packer face plate is in the rearward position, and to add an additional limitation relating to the slide panels when the packer face plate is in the rearward position. This added limitation was previously found in claim 14, which has been cancelled. Applicant's new claims 21-27 do not contain the objectionable term "significantly overlapped".

Claim 15 has been rejected for its recitation that the spill shield assembly includes a pair of ramps, one of which is attached to each side of the walls of the collection compartment.

Applicant has now amended claim 15 to provide that each ramp is attached to one of the side walls of the collection compartment. A similar amendment has also been made to claim 18.

Applicant believes that these amendments remove any indefiniteness in the claims, and he respectfully requests that these §112 rejections be withdrawn, and that claims 8-13 and 15-20, as amended, and new claims 21-27, be allowed.

**CLAIMS 8-10 AND 12-13, AS AMENDED, AND NEW CLAIMS 21-27 ARE NOT
OBVIOUS IN VIEW OF A COMBINATION OF THE GHIBAUDO, BLANK AND
COLLINS PATENTS**

Claims 8-10 and 12-14 have been rejected under 35 U.S.C. §103 as being obvious in view of a combination of U.S. Patent No. 6,146,079 of Ghibaudo, U.S. Patent No. 5,807,043 of Blank and U.S. Patent No. 3,604,521 of Collins.

The Ghibaudo patent discloses a side-loading refuse collection vehicle with a storage body 10 including a forward hopper section 14 and a rear section 16 with an open end having a tailgate 18 mounted thereon. A hollow canopy section 20 is mounted in front of the hopper section above the cab of the truck chassis, and a divider wall 34 separates the hopper section from the rear section. A box-like eject blade 24 is mounted adjacent to the floor of the storage body and is adapted to be moved from a forward position in which its rearward face extends just past the divider wall to a rear position in which its rearward face is at the rear end of the storage body. A similar but shorter box-like packer blade 28 is mounted on a pair of rails 70 and 72 that are attached to opposite side walls of the storage body. The packer blade is adapted to travel over a path of travel from a forward position near the front end of the hopper to a rear position just past the divider wall. This path of travel of the packer blade carries it across the upper surface of the eject blade from one end to the other, but no farther, while the eject blade is in its forward position. It is contemplated that the packer blade will move along this path of travel many times to push refuse from the hopper section into the rear section. The eject blade then may be actuated to move across the length of the rear section of the vehicle. A multi-section articulating follower plate 86 is connected to the forward top edge of the packer blade 28 for covering the hydraulic actuator that drives the packer blade as the packer blade moves rearwardly across the lower portion of the hopper section. As the packer blade

moves in the opposite (or forward) direction, rollers mounted on the underside of the follower plate guide the plate along a curved track that is centrally supported inside the canopy section, so that the follower plate may be stowed within the hollow canopy section.

The Office Action suggests, at the top of page 4, that Ghibaudo teaches a spill shield that is disposed at an angle so as to direct any refuse into the hopper section when the packer face plate is in a forward position, as required by Applicant's claims 8-10 and 12-13, as amended, and new claims 21-27. However, as stated at column 7, lines 2-7 of the Ghibaudo patent, "[w]hen the packer blade 28 is in its forwardmost position illustrated in Figure 7A, the follower plate 86 is stowed in an inclined position within the canopy section 20." As best shown in Figure 1, canopy section 20 of the Ghibaudo vehicle is entirely in front of the hopper section 14. Consequently, the Ghibaudo follower plate cannot direct refuse into the hopper section when the follower plate is in front of, and contained within, the canopy section, and therefore, the Ghibaudo patent does not teach this feature of Applicant's claimed invention.

Furthermore, Applicant's claims 8-10 and 12-13, as amended, and new claims 21-27 all require that when the packer face plate is in the rearward position, the slide panel assembly is (or the side panels are) in the extended position and cover(s) a substantial portion of the top of the collection compartment forward of the packer face plate. In contrast, when the Ghibaudo packer blade is in the rearward position (shown in Figure 7B), the follower plate is disposed deep within the hopper section and covers only the hydraulic cylinders 30 and 32 that drive the packer blade. In this position, the Ghibaudo follower plate *cannot cover a substantial portion of the top of the hopper section.*

The Blank patent discloses a telescoping cover for the platform over which a machine tool moves as the tool moves back and forth along platform 22 in performing a machining operation. The telescoping cover is comprised of a plurality of interlocking segments 34, each of which includes a pair of interlocking channels 38. Each segment 34 is attached to a back panel 48, and each back panel includes a bottom edge that rides along the horizontal way surface 62 of machine tool 24.

The Office Action states that "[i]t would have been obvious to one of ordinary skill in the art at the time of the invention to provide the apparatus taught by Ghibaudo with a telescopic cover as taught by Blank in order to allow the spill shield to extend to any length needed to cover the rear of the packing plate when it is in a rearward position and also stowing in a compact manner when the packing plate is in the forward position..." However, as pointed out above, the Ghibaudo follower plate *does not cover a substantial portion of the top of the hopper section when the packer blade is in the rearward position*, and it cannot direct refuse into the hopper section when the packer blade is in the forward position, as required by Applicant's claims 8-10 and 12-13, as amended, and new claims 21-27. Furthermore, because all of the interlocking segments 34 of the Blank telescopic cover include interlocking channels 38 and a back panel 48 with a bottom edge that rides along a horizontal way surface 62, *these panels cannot extend and retract between a horizontal disposition and an angled disposition*. In contrast, Applicant's claims 8-10 and 12-13, as amended, and new claim 22 require that one of the slide panels be adapted to slide over the other between an extended position in which the slide panels *are disposed generally horizontally* when the packer face plate is in a rearward position and a retracted position in which the slide panels are

overlapped *and are disposed at an angle* so as to direct any material falling thereon into the collection compartment when the packer face plate is in a forward position.

The Collins patent discloses an earth boring apparatus that is adapted to be connected to the power take off shaft of a tractor. This apparatus includes an upright auger 3, a telescoping boom 2, a pivoting connector link 4 between the boom and the auger, an inverted U-shaped lifting bail 5 and a pair of links 6. The apparatus is adapted to be connected to the lift mechanism 7 of a tractor, which includes a pair of lift arms 9. Lifting bail 5 is pivotally connected at the upper end of the inverted "U" to the sliding portion of the boom, and each leg of the "U" is pivotally attached to one of the tractor lift arms 9. Links 6 are pivotally connected at one end to the non-sliding portion of the boom and pivotally and slidably connected at the other end to the lifting bail. The arrangement of all of these components permits the auger to remain vertical as it rotates to dig a hole in the ground and as it is lifted out of the hole.

The Office Action correctly points out that the follower plate of the Ghibaudo patent does not include a link connecting it to the packer face plate. However, the Office Action also states that it "would have been obvious to one of ordinary skill in the art, at the time of the invention to ... add a link arm as taught by Collins in order to positively position the slide panels in relation to the packer plate at all positions of the packer plate assembly." The Office Action identifies the Collins "link arm" as "(5,6)". However, item 5 of the Collins patent is an inverted U-shaped lifting bail that is pivotally connected at the upper part of the "U" to the sliding portion of boom 2 and pivotally connected at the end of each leg of the "U" to the tractor lift arms. Item 6 of the Collins patent refers to a pair of links that are pivotally connected at one end to the non-sliding portion of the boom

and pivotally and slidably connected at the other end to the lifting bail. Taken together, items 5 and 6 of the Collins patent attach the two lifting arms of the tractor to both the sliding and the non-sliding portions of the boom. Furthermore, links 6 are adapted to both pivot and slide with respect to the lifting bail. Consequently, Applicant disagrees that a combination of lifting bail 5 and links 6 could be employed in Applicant's claimed invention to "positively position the slide panels in relation to the packer plate at all positions of the packer plate assembly."

Finally, Applicant does not believe that it would be obvious to a person having appropriate skill in the art to combine the teachings of Collins with those of Ghibaudo and Blank in an attempt to produce Applicant's claimed invention. The Ghibaudo refuse collection vehicle includes a follower plate that does not cover a substantial portion of the top of the hopper section when the packer blade is in the rearward position. The Blank patent and the Collins patent do not relate to refuse collection vehicles at all. The Federal Circuit has stated that "[t]he combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a *prima facie* case of obviousness. There must be some reason, suggestion or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge cannot come from the applicant's invention itself." In re Oetiker, 977 F. 2d 1443, 24 USPQ 2d 1443, 1446 (Fed. Cir. 1992).

There is nothing to suggest any motivation in either the Ghibaudo, the Blank or Collins patents, or in the knowledge of one having ordinary skill in the art to which Applicant's invention relates, to combine the inverted U-shaped bail and links of the Collins auger, and the telescoping cover for a machine tool platform of Blank with the Ghibaudo follower plate in the manner suggested by the

Office Action. Consequently, Applicant requests that this §103 rejection of his claims be withdrawn, and that claims 8-10 and 12-13, as amended, and new claims 21-27 be allowed.

CLAIMS 15-18 AND 20, AS AMENDED, AND NEW CLAIMS 21-27 ARE NOT OBVIOUS IN VIEW OF A COMBINATION OF THE GHIBAUDO, BLANK, COLLINS AND ROMANO PATENTS

As pointed out above, Applicant's claimed invention, as set forth in claims 8-10 and 12-13, as amended, and new claims 21-27, is not obvious in view of a combination of the Ghibaud, Blank and Collins patents.

U.S. Patent No. 4,611,848 of Romano describes a pickup truck having an open body consisting of flat bottom 96, side walls 13 and front wall 14. The truck also includes tail gate 15 and sliding cover 20. Left and right tracks 16 and 17, respectively, each of which has a C-shaped cross-section, are horizontally mounted on the upper portions of the side walls. Cover 20 is comprised of a plurality of essentially planar rectangular panels 21. Adjacent panels of cover 20 are joined together by rod 24. Each of rods 24 is longer than the panels it joins so that an exposed portion 25 on each end of each rod extends outside the panels on opposite sides. A wheel 26 is rotatably mounted on each exposed portion 25 of each rod, and wheels 26 on left and right sides of the panels are inserted respectively inside the channels of tracks 16 and 17. A housing 33 is mounted on the front wall 14 of the open body. This housing includes a pair of goose-neck-shaped extensions 41 that abut with tracks 16 and 17 and cooperate therewith to form a continuous guide for the cover into housing 33. A rewind tube 60 is mounted in the housing and the cover is adapted to wind around the rewind tube within the housing. Consequently, tracks 16

and 17 are adapted to guide and support cover 20 as it is moved to its extended or rearward position out of the housing.

The Office Action states that it would have obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus of Ghibaudo as described above "and to further use a plurality of guide ramps as taught by Romano in order to maintain alignment of the panels as they are placed in the forward position." However, as pointed out above, the guide tracks 16, 17 of Romano are adapted to guide and support the cover *as it is moved from its forward position to its rearward position*. Furthermore, Applicant's claim 17, as amended, requires that the guide ramps be disposed at an angle of about 45° from the horizontal.

Finally, Applicant does not believe that it would be obvious to a person having appropriate skill in the art to combine the teachings of Romano with those of Ghibaudo, Blank and Collins in an attempt to produce Applicant's claimed invention. The Ghibaudo refuse collection vehicle includes a follower plate that does not cover a substantial portion of the top of the hopper section when the packer blade is in the rearward position. The Blank, Collins and Romano patents do not relate to refuse collection vehicles at all. The Federal Circuit has stated that "[t]he combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a *prima facie* case of obviousness. There must be some reason, suggestion or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge cannot come from the applicant's invention itself." *In re Oetiker*, 977 F. 2d 1443, 24 USPQ 2d 1443, 1446 (Fed. Cir. 1992).

There is nothing to suggest any motivation in either the Ghibaudo, Blank, Collins or Romano patents, or in the knowledge of one having ordinary skill in the art to which Applicant's invention relates, to combine the inverted U-shaped bail and links of the Collins auger, the telescoping cover for a machine tool platform of Blank, and the horizontally disposed tracks of Romano with the Ghibaudo follower plate in the manner suggested by the Office Action. Consequently, Applicant requests that this §103 rejection of his claims be withdrawn, and that claims 15-18 and 20, as amended, and new claims 21-27 be allowed.

Applicant respectfully submits that he has demonstrated that claim 8 (from which claim 11 depends) and 12 (from which claim 13 depends) and claim 18 (from which claim 19 depends) are allowable over the art of record. Therefore, he requests that the objections to claims 11, 13 and 19 be withdrawn, and that these claims, as amended, be allowed.

Applicant respectfully submits that all of his claims are patentable over the prior art references cited in the Office Action, including those made of record but not relied upon. Applicant requests therefore that the rejections of his claims be withdrawn and that claims 8-13 and 15-20, as amended, and new claims 21-27 be allowed.

Respectfully submitted,



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